



BOARD OF APPEALS  
Diane R. Gordon, Co-Chair  
Harry Miller, Co-Chair  
Bailey S. Silbert

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. BOA 070040

Petitioner, Yannis Doganis, applied to the Building Department for a permit to do renovations on his property at 529 Chestnut Hill Avenue. The application was denied and an appeal taken to this Board. The petitioner seeks zoning relief to increase the habitable floor area to his single-family home.

On May 31, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed July 26, 2007 at 7:15 p.m. in Hunneman Hall, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the petitioner, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published June 28 and July 5, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE  
MASSACHUSETTS  
BOARD OF APPEALS  
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **DOGANIS YANNIS**

Location of Premises: **529 CHESTNUT HILL AVE BRKL**

Date of Hearing: **07/26/07**

Time of Hearing: **07:15 p.m.**

Place of Hearing: **Main Library, Hunneman Hall, 2<sup>nd</sup> fl.**

A public hearing will be held for a special permit and/or variance from:

- 1) 5.09.2.j; Design Review, Special Permit Required.**
- 2) 5.20; Floor Area Ratio; Variance Required.**
- 3) 5.22.3.b.1.b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units. Special Permit Required.**

Of the Zoning By-Law to construct an additional habitable floor area to the residence per plans at **529 CHESTNUT HILL AVE BRKL**.

Said Premise located in a **S-25** District.

*Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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Present at the hearing was Chair, Lawrence Kaplan and Board members Bailey Silbert and Jesse Geller. The petitioner's proposal was presented through their development manager, Richard Feldman of Feldman Development Partners, 10 Knollcrest Drive, Andover, MA 01810.

Mr. Feldman described the site as a significantly-sized lot located outside of Cleveland Circle between the Fisher Hill and Chestnut Hill neighborhoods. The lot abuts the Daniel Warren Playground



at the rear; the rest of the surrounding neighborhood is made up of single-family residences. The main building was formerly used as a girls school. To the side of the main building is a carriage barn being converted into a garage with living area above. He said that the owner purchased the property in defense of a proposed 40B project. The property is currently undergoing extensive renovations and additions. He said the owner Mr. Doganis currently lives next door at 511 Chestnut Hill Avenue. The owner is doing the renovations as this is to be the future home of his family. Mr. Feldman described the project as an increase in the habitable floor area of the dwelling with two separate alterations: conversion of a covered basement/portico area into a bedroom and handicap accessible bathroom, and enclosure of the "porte cochere/storage/playroom" area between the main dwelling and the garage. This area is currently roofed but is partly open to the elements. The proposed location for the "grandparent's bedroom" on the basement level was previously designed to be part of an unenclosed covered portico area below the first floor terrace. A portion of this area would now be enclosed and converted to a bedroom with an accessible bathroom for use by a family member. The rest of the area would remain a covered portico. The room would have direct access to the exterior through French doors with side lights. This bedroom would result in an increase in floor area of 475 square feet. The second increase in floor area involves the covered porte cochere/storage room on the first floor between the main dwelling and the garage. The original plan involved a roofed area between the dwelling and the garage that remained partially open to the elements because of two large openings, one on the front façade and another at the rear. Mr. Doganis would like to enclose this area with two garage door-like mechanisms, one for each opening. This would result in an increase in floor area of 877 square feet. Mr. Feldman said that the owner is requesting a special permit for increased floor area and because of this he is also subject to a special permit for design review.

The Chair asked whether anyone would like to speak in favor or in opposition to the proposal.

Michael Oates of 96 Dean Road stated that all the neighbors are supportive of the project and appreciate that Mr. Doganis is keeping the property in conformance with the rest of the neighborhood.

Polly Selkoe, representing the Planning Board described the relief required for the project.

**Section 5.20 – Floor Area Ratio**

**Section 5.22.3.b.1.b – Exceptions to Maximum Floor Area Ratio Regulations for Residential Units**

|                                      | <u>Allowed<br/>By Right</u> | <u>Allowed<br/>By Special Permit</u> | <u>Existing/<br/>Under<br/>Construction**</u> | <u>Proposed</u> | <u>Finding</u>         |
|--------------------------------------|-----------------------------|--------------------------------------|---|-----------------|------------------------|
| <b>Floor Area Ratio<br/>(F.A.R.)</b> | 0.20<br>(100%)              | 0.24<br>(120%)                       | 0.19<br>(95%)                                 | 0.22<br>(110%)  | <u>Special Permit*</u> |
| <b>Floor Area (s.f.)</b>             | 13,907                      | 16,689                               | 13,703  | 15,055          | --                     |

\* Under Section 5.22.3.b.1.b, the Board of Appeals may allow by special permit an exterior addition up to 120% of the permitted gross floor area.

**Section 5.09.2.j – Design Review**

Exterior additions to existing structures for which a special permit is requested pursuant to *Section 5.22 Exceptions to Maximum Floor Area Ratio Regulations for Residential Units* require a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. The most relevant sections are described below:

- Preservation of Trees and Landscape*: Since the proposal involves enclosing what would have been already paved and covered space, there is not expected to be a significant impact on trees and landscaping on the property. The lot, though currently under construction, is expected to have ample landscaping and open space for a single-family dwelling.
- Relation of Buildings to Environment*: The proposed enclosed areas will be finished in materials similar to the existing building, and should blend in well with the overall site.
- Open Space*: Though the proposal would change usable open space into finished floor area, the site will have extensive usable open space for its residents.

Ms. Selkoe said that the Planning Board is not opposed to the proposal to convert a portion of the basement and portico area into a bedroom and to enclose the roofed area between the main dwelling and the garage. Though the dwelling is large, the lot on which it is located is correspondingly large, and the proposed floor area addition would not negatively impact surrounding properties. The proposal makes use of what would already be hardscaped and roofed area by enclosing them; the visual impact



would be minimal. Finally, the site will continue to have sufficient usable open and landscaped space on the property. Therefore, the Planning Board recommends approval of the proposal and plans, prepared by Meyer & Meyer and last dated July 9, 2007, subject to the following conditions:

1. Prior to issuance of a building permit, final elevations and floor plans of the additions shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair then called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the project for the Board. He said there is currently a building permit issued for the home for some additions that can be accomplished by right. He said relief was needed under Section 5.22.3.b.1.b. The Board can grant Floor Area Ratio Relief up to 20% above that which is permitted in the bylaw for exterior additions. He said this request was for an approximately 9% increase. Because this is a request for Floor Area Ratio relief it also triggers Design Review under Section 5.09.2.j. Mr. Hitchcock said that the Building Department has no objection to the proposal, no objection to the zoning relief that is required and no objection to the conditions recommended by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that is desirable to grant Special Permits under Section 5.22.3.b.1.b and Section 5.09.2.j of the Zoning Bylaw. The Board makes the following findings pursuant to Section 9.05:

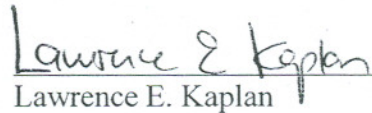
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.

- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the Board voted unanimously to grant all the Special Permit relief with the following conditions:

1. Prior to issuance of a building permit, final elevations and floor plans of the additions shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

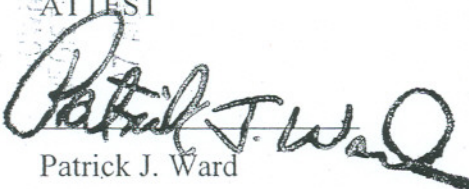
Unanimous Decision of  
The Board of Appeals

  
Lawrence E. Kaplan

Filing Date: August 15, 2007

A True Copy:

ATTEST



Patrick J. Ward

Clerk, Board of Appeals

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